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IN THE

Supreme Court of the United States

October Term, 1960
No. 715

RAYMOND W. CLAWSON,

Petitioner,

vs.

UNITED STATES OF AMERICA.

Petition for Rehearing of Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

RAYMOND W. CLAWSON
1115 South Windsor Boulevard
Los Angeles, California
In Propria Persona

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INDEX

	Page
Point	2
Facts	2
Citation of Authority, United States v. Hall, 198 F. 2d 726	2
Conclusion	5
Certificate of Petitioner	5

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To the Honorable, the Chief Justice, and Associate Justices of the Supreme Court of the United States:

The petitioner's application for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit, entered in this case December 6, 1960, was denied April 24, 1961.

The petitioner Raymond W. Clawson, *in propria persona*, respectfully petitions this court for a rehearing. It is well-settled that a defendant in a criminal case can represent himself in person and with counsel through all stages of the proceedings and until the final disposition of the case.

POINT

Your petitioner presents the following grounds, which, inadvertently, were not presented in the petition for certiorari, namely the decision in *United States v. Hall*, (C.A. 2d, N.Y.) 198 F. 2d 726, wherein the Court reversed count number 1, although it affirmed the case as to count number 2, which shows an affirmance in decision authority where defendant-appellant deliberately violated a surrender order, but that the facts, circumstances, and evidence in the reversal of count number 1, based only on violation of the bond provisions, are identical and exactly in point with the facts and circumstances in this case. We contend that the reversal of count 1, supra, is the existing law and controlling authority not examined heretofore in this appeal, and warrants the granting of certiorari herein and reversal. The raising of this point is of the most substantial nature in justice to petitioner, and this petition will be restricted to this point exclusively.

FACTS

It is obvious from the record that no order was ever made by the Court directing petitioner to appear or surrender on the mandate or any other moving paper, to the Court, the U. S. Marshal, or elsewhere.

It is incontrovertible that the Trial Court adopted the theory that the terms set forth in the bail bond as to surrender or departure from the jurisdiction, if violated, were sufficient to convict petitioner of contempt, when the Court said at page 130 R. Tr.:

"The Court. I am not going to repeat what I

said yesterday. It is my view that no order other than that which was made was necessary, and this covenant in the bond indicates one of the conditions that he knew was imposed, which was not to absent himself from the jurisdiction without leave of the Court. Any document which calls that to the attention of the defendant is permissible in a proceeding of this character. The objection is overruled. You may answer the question."

In the Hall case, supra, which is absolutely identical as to reversed count number 1, with the facts and evidence here, Judge Clark said:

"We turn then to the specific counts. The first alleges violation of Judge Bondy's order of November 10, 1949. This court, on November 2, 1949, had ordered the respondent's release from custody pending appeal upon the posting of a bond in the amount of $20,000. The bond was filed the next day and, in addition to the usual provisions for appearance and surrender for execution of sentence when required, was specifically conditioned that Hall 'shall not depart the jurisdiction of the District Court of the United States for the Southern District of New York without leave.' The Court below read the order as incorporating the promises of the bond, including those to surrender for execution and not to depart the jurisdiction. We think this error, for we find no plain violation considering the purposes for which the former was drawn. *Terminal Railroad Association of St. Louis v. United States*, 266 U. S. 17, 29. 45 S. Ct. 5, 69 L. Ed. 150; *and of*

course no contempt attaches merely to a failure to satisfy the guarantees of reappearance in the bond. (Italics ours) A fair reading of the order discloses that it was directed to the enlargement of the respondent. The subordinate clauses which follow this direction are to be interpreted merely as setting out the purposes for which this enlargement was permitted such as Hall's journey to Cleveland, and its subsequent conditions, including the agreed approval of his surety. Moreover, the order plainly specifies its own sanction, namely, forfeiture of the bond. *In view of this, to construe it as a direct mandate to return on penalty of conviction for contempt requires some little adjustment of phraseology which to support conviction of contempt we think improper.* (Italics ours) . . . reversed as to first count."

The pertinent portions of the bond of your petitioner, for the violation of which, the Trial Court held him in contempt, are:

". . . and if the said Raymond W. Clawson will appear for retrial in the United States District Court for the Southern District of California, and abide by and obey all orders made by said court on such day or days as may be appointed for retrial by said United States District Court provided the said judgment and sentence against him be reversed, and shall not depart the jurisdiction of the United States District Court for the Southern District of California without leave, then this recognizance to be void, otherwise to remain in full force, virtue and effect."

CONCLUSION

Petitioner contends most vigorously that the circumstances in the Hall case as to reversal of count number 1, and the circumstances herein are identical, and that in view of the reversal by the Court of Appeals in New York, the Court of Appeals in San Francisco was bound by this decision to reverse the case of petitioner, and that in not so doing, the only remedy left to petitioner is the granting of certiorari and reversal by this Court. The action of the Court of Appeals, below, in affirming this case without opinion, which your petitioner respectfully contends, has little precedent in a serious case where imprisonment is concerned, should be examined by this Court as to the law and justice in the premises.

The petition for a writ of certiorari should be granted.

RAYMOND W. CLAWSON
In Propria Persona.

Certificate of Petitioner In Propria Persona

Your petitioner hereby certifies that this petition for rehearing is presented in good faith in order that he may receive justice, and is not presented for the purpose of delay.

RAYMOND W. CLAWSON

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